Pratt & Lambert, Inc. *and* International Brotherhood of Firemen and Oilers, Local Union No. 1125, AFL–CIO. Case 3–CA–18352

October 31, 1995

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS BROWNING AND TRUESDALE

On June 22, 1995, Administrative Law Judge Steven Davis issued the attached decision. The Respondent filed exceptions and a supporting brief, and the General Counsel filed an answering brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions and to adopt the recommended Order as modified.

The Respondent excepts to the judge's recommended Order for two reasons. First, the Respondent argues that the Order is too broad because it requires information prior to the effective date of the collective-bargaining agreement in place at the time that the Union made its information request. We reject this argument as untimely. The Respondent did not make this argument to the judge and raises it for the first time in its exceptions. Furthermore, even if the argument was timely, we would reject it because the information requested is relevant to the Union's concern that the Respondent's subcontracting activities during the time in question eventually resulted in noncompliance with the collective-bargaining agreement.[2] *Hawkins Construction Co*., 285 NLRB 1313 (1987).

The Respondent also excepts to the requirement in the judge's recommended Order that it provide the number of man-hours subcontracted out during the period in question. The Respondent contends, and the General Counsel concedes, that the Respondent's witnesses testified without contradiction that the Respondent does not keep systematic track of the man-hours subcontracted out. The record establishes, however, that some of the documents that include descriptions of the work contracted out (for example, subcontractor's invoices) also include man-hours or include information that would allow the Union to estimate man-hours. In light of the evidence presented, we will modify the Order and direct the Respondent to produce the total man-hours worked by outside contractors insofar as that information is available.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Pratt & Lambert, Inc., Buffalo, New York, its officers, agents, successors, and assigns, shall take the action set forth in the Order as modified.

1. Substitute the following for subparagraph 2(a)(i):

''(i) Total man-hours worked by outside contractors in the performance of maintenance department work at its Tonawanda facility per year for the period February 4, 1989, through September 4, 1993, insofar as that information is available.''

2. Substitute the attached notice for that of the administrative law judge.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to furnish International Brotherhood of Firemen and Oilers, Local Union No. 1125, AFL–CIO with the requested information, set forth below, which is relevant to administering the collective-bargaining agreement between the Employer and the Union.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL furnish the Union with the following information:

Total man-hours worked by outside contractors in the performance of maintenance department work at its Tonawanda facility per year for the period of February 4, 1989, through September 4, 1993, in so far as that information is available.

A brief description of each maintenance department job/project at its Tonawanda facility which was con-

[1] The Respondent contends that the information sought by the Union is not relevant because the Respondent's subcontracting activities have not resulted in the displacement or layoff of employees. The Union has demonstrated that the maintenance department has lost approximately three employees over the course of a year and that these employees have not been replaced. The Respondent asserts that those three employees retired and were not laid off or displaced. We agree with the judge that the Union has established that the information requested is relevant to the Union's ability to administer the collective-bargaining agreement. We note that, despite the Respondent's assertions, there is no evidence in the record that those three employees retired. Moreover, the Respondent's argument regarding the definition of the phrase ''laid off or displaced'' is appropriate for an arbitrator to decide and is not an issue that is properly before the Board. See generally *Bell Telephone Laboratories*, 317 NLRB 802 (1995).

[2] The Union has represented the Respondent's production and maintenance employees since 1946. The parties' collective-bargaining agreement has included the subcontracting provision at issue since 1989.

tracted out per year for the period of February 4, 1989, through September 4, 1993.

PRATT & LAMBERT, INC.

Ron Scott, Esq., for the General Counsel.
Paul M. Murray, Corporate Director of Human Resources, for the Respondent.
John Ringer, President, Local 1125, for the Charging Party.

DECISION

STATEMENT OF THE CASE

STEVEN DAVIS, Administrative Law Judge. Based on a charge filed on January 31, 1994, by International Brotherhood of Firemen and Oilers, Local Union No. 1125, AFL–CIO (the Union), a complaint was issued on April 7, 1995, against Pratt & Lambert, Inc. (Respondent).[1] The complaint alleges essentially that the Union requested certain information concerning Respondent's subcontracting of work, and that Respondent failed and refused to furnish it, in violation of Section 8(a)(5) and (1) of the Act. Respondent's answer denied the material allegations of the complaint and asserted certain affirmative defenses, and on April 24, 1995, a hearing was held before me in Buffalo, New York.[2]

On the evidence presented in this proceeding, and my observation of the demeanor of the witnesses, and after consideration of the briefs filed by the General Counsel and Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

Respondent, a corporation having its office and place of business at 75 Tonawanda Street, Buffalo, New York, has been engaged in the business of manufacturing paints and coatings. During the past year, Respondent sold and shipped from its New York facilities goods valued in excess of $50,000 directly to points outside New York State. Respondent admits and I find that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

Respondent also admits and I find that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. THE ALLEGED UNFAIR LABOR PRACTICES

A. *Background*

On October 11, 1946, the Union was certified, and continues to be the exclusive collective-bargaining representative of Respondent's employees in the following unit:

> All production and maintenance employees and truck drivers, except for office and clerical employees, chemists, foremen, and all supervisory employees with authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees, or effectively recommend such action.[3]

Respondent employs about 300 to 350 employees, about 81 of whom are unit employees. Of the 81 workers, about 7 to 9 are employed in Respondent's maintenance department. Those workers perform general maintenance and repair work such as carpentry and masonry block work. They also maintain the facility and equipment, working throughout Respondent's facility.

This dispute arose from a belief by the Union that Respondent's subcontracting activities were causing a loss of work and the layoff of employees in the maintenance department. The parties negotiated certain language in 1989 which permitted such subcontracting work except if it caused the displacement or layoff of maintenance department employees. The specific contractual clause, article 21, section 3, provides as follows:

> Any additional, extra or emergency work for all departments except the Maintenance Department shall be given to the regular employees of the Company, if available and qualified, before obtaining outside help. For the Maintenance Department and/or work currently performed by Maintenance Department employees, the Company may engage outside contractors provided such engagement does not result in the displacement of any Maintenance Department employee and/or such engagement leads to layoff of any Maintenance employee. Nothing contained herein shall preclude additional, extra or emergency work within the Maintenance Department from being assigned to any employee(s).[4]

B. *The Requests for Information and the Responses*

John Ringer, the Union's president, testified that he had received complaints from the Union's members that Respondent was using subcontractors to perform work previously done by its maintenance department employees, and that he believed that the loss of at least three such employees had been caused by the increasing amount of subcontracting.[5]

On September 15, 1993, Ringer sent a letter to Paul Murray, Respondent's corporate director of human resources which stated that the Union has experienced a ''steady loss'' of its members employed in the maintenance department, and was ''very concerned that our diminished presence within that department can be directly traced . . . to the 1989 introduction of the subcontracting clause within our agreement.''[6]

---

[1] Respondent admits that the charge was filed, but denies that it was served. An affidavit of service and other documents in evidence establish that a copy of the charge, mailed to Respondent on January 31, was served on it on February 1.

[2] This case was originally consolidated for hearing with Case 3–CA–19103. Thereafter, Respondent requested a separate hearing in Case 3–CA–19103. The Regional Director granted the request, and on April 10, 1995, issued an order severing cases, second amended complaint and notice of hearing in the instant case.

[3] There are certain further exclusions from the unit which are not relevant here.

[4] The collective-bargaining agreement, which ran from February 1992 to February 1995, has been renewed and contains the same language in art. 21, sec. 3.

[5] The term ''subcontractor'' and ''vendor'' will be used interchangeably.

[6] Respondent's answer admits Murray's title, but denies that he is its supervisor or agent. Ringer gave uncontradicted testimony that Murray represents Respondent at third-step grievance meetings, and

The Union's letter requested ''detailed information'' regarding the use of subcontractors from February 4, 1989, through September 4, 1993, including (a) annual dollars spent, (b) total man-hours worked, and (c) a brief description of each job/project which was contracted out.

About 1 month later, Murray told Ringer that he was not familiar with the way Respondent maintains its records as to the information the Union sought.[7] He also told Ringer that the Union had an obligation to set forth specific contractors and specific jobs for which the information was requested. Ringer replied that such a task was virtually impossible, and emphasized that, although he realized that it may not be easy to obtain the information, the Union needed it in order to process a grievance and to see whether article 21, section 3 had been violated. Murray suggested that Ringer speak to Plant Manager Richard Zodda. On October 19, Ringer sent a letter to Zodda, which was identical to that sent on September 15 to Murray.[8]

On October 19, 1993, the Union filed a grievance, claiming a violation of article 21, section 3 by Respondent's recent decision to enter into a subcontract with Liftech Handling, Inc., to maintain the plant's fleet of material handling vehicles, instead of assigning such work to the maintenance department's employees. The grievance stated that in April 1993, employee Renzoni, who performed such work, was transferred out of the maintenance department due to lack of work. The grievance requested information concerning the Liftech contract. Thereafter, in late February 1994, the grievance was withdrawn when Renzoni returned to the maintenance department.[9]

On December 6, Murray sent a letter to Ringer, advising that the ''type of data you are looking for cannot be easily attained. We do not keep a separate accounting of subcontractors hours or breakout billing by functional area. I am willing to facilitate accessing whatever data you require relevant to specific subcontracting activities . . . . [Y]our initial request is too broad and non specific to gather any relevant data.''

On December 16, Ringer sent a letter to Murray, noting that the Union had not received any of the requested information. Ringer conceded that ''it appears that our initial request can't be satisfied because of the way that we asked for it to be broken down.'' Ringer continued that the Union could not be more specific, and requested that ''any and all related documentation'' be provided, and that ''whatever in-house method is used to document outside contracting activities will suffice.'' He stated that documentation from ''successful bidders . . . would undoubtedly prove to be very useful.'' Ringer stated that the documents are necessary in order to determine whether article 21, section 3 has been violated due to the loss of maintenance department employees and the increasing use of contractors.

On January 10, 1994, Murray ''flatly refused'' to provide the Union with the requested information, saying that the request is ''too vague, therefore it represents an unreasonable request.'' Two days later, when Ringer complained that he had not received any of the requested information, Murray again said that the Union was obligated by the ''contract and reason to limit/narrow its request to specific contractors and engagements.'' Ringer denied that the Union had such an obligation, adding that the information was needed in order to determine whether the contract was violated, and further that the Union was considering filing a grievance. He also told Murray that a ''good starting point'' would be documentation from Don Vacanti, a construction contractor, which does a substantial amount of work for Respondent.

On January 16, Ringer sent a letter to James Gouck, the new plant manager, requesting ''any and all subcontracting data pursuant to 21–3, for the period February 4, 1992, through January 13, 1994, specifically (a) names of each subcontractor (b) total dollars spent during the period and separately for each subcontractor and the (c) total number of man-hours paid for during the period indicated above and separately for each subcontractor.''

On January 31, the instant charge was filed. Following the filing of the charge, a file for subcontractor Vacanti was presented to the Union for the ''previous year,'' presumably 1993. The documents were barely legible and difficult to read.

On February 3, a third-step grievance meeting was held on the Renzoni grievance, set forth above. A third-step answer, denying the grievance, was issued on February 24. Attached to the answer was Respondent's purchase order dated October 7, 1993, concerning Liftech. The purchase order listed the total dollar amount of the contract, and a description of the job: 1-year preventive maintenance agreement to cover all riding and walking lift trucks; riding lift trucks to be inspected monthly; walking lift trucks to be inspected quarterly; lube, oil, and filter to be covered (air filter if necessary); and all other items to be covered as per basic BPM plan. Also attached was Liftech's detailed maintenance form listing 66 maintenance items to be performed according to the Hyster maintenance recommendations.[10]

Ringer stated that the data supplied, the dollar amount of the subcontract, only partially complied with the Union's request for information in that no information was provided concerning total man-hours worked, and Ringer did not believe that the description of the job was sufficient.

On about February 17, Respondent turned over information concerning about six subcontractors concerning jobs performed in 1994. Such information included all the invoices that each of the vendors submitted to the Respondent in 1994.

The data furnished includes receipts and invoices that Respondent received from the subcontractors, and also copies of Respondent's purchase orders. The data gave specific infor-

has full authority to settle, adjust, or dispose of grievances. Murray chaired Respondent's bargaining committee during recent contract negotiations, signed Respondent's answer to the complaint, and represented it at this hearing. I find that Murray is a supervisor and agent of Respondent.

[7] The recitation of the facts is based on Ringer's credited version. He testified candidly and forthrightly. Respondent's official Murray did not testify.

[8] Respondent's answer admits that Zodda was the plant manager, but denies that he was its supervisor or agent. Ringer gave uncontradicted testimony that Zodda possessed the authority to adjust grievances, and that as the plant manager, had the authority to hire, discipline, and discharge employees. I find that Zodda was Respondent's supervisor and agent.

[9] The grievance was withdrawn, without prejudice, to the Union's assertion of future violations of art. 21, sec. 3.

[10] Respondent's third-step grievance answer also noted that Liftech charges about $300 per inspected machine.

mation concerning the jobs performed—emergency repair to window in R. Miller's office; landscaping service including the furnishing of labor, material, and equipment and including spring cleanup; installation of wallboard in room 201; painting of specific rooms; and repairs to vehicles. The dollar amount of the subcontracting was set forth in the documents.

Gouck testified that there were other subcontractors who performed work for Respondent in 1994, but documents concerning them were not turned over to the Union because Respondent did not maintain a list of subcontractors, and the Union would not state specifically the specific jobs or names that it was seeking. Gouck stated that without such a list, Respondent could not determine who the specific vendors were.

On tendering these documents to Ringer, Murray asked him whether those papers would ''suffice.'' Ringer interpreted this as meaning that Murray wanted him to withdraw the charge in exchange for these documents. Ringer replied that his request for information covered years prior to 1994, and therefore the tender, which only contained 1994 records, was not sufficient.

On April 17, Ringer sent a letter to Murray which stated that ''the information did not satisfy our request since it was for 1994 only [and did not include] total man-hours worked.''

Thus, the Liftech purchase order, the file for Vacanti which was illegible, and the 1994 documents supplied on February 17 constitute the data produced in response to the Union's request. No information has been provided for the years 1989 through 1993, except for the 1993 Vacanti file. The General Counsel concedes that there has been partial compliance with the Union's request.

The question is whether such compliance is sufficient to meet Respondent's obligation to provide information.

C. *Respondent's Evidence*

Respondent's affirmative defense as set forth in its answer is that the information requested by the Union is ''overly broad, imprecise, irrelevant and unnecessary for the Union's performance of its duties as bargaining representative.''

Gregory Kazmierczak, Respondent's maintenance coordinator, testified that once a decision is made to subcontract a job, he utilizes several resources to identify a subcontractor to perform the task: he has a list (called a short list) containing the names of contractors he uses on a regular basis, which comprises about 60 to 70 percent of all the subcontracting work done at the facility; telephone yellow pages listings; or the Thomas trade directory, which lists the subcontractors in the immediate area.

Kazmierczak then calls the subcontractors, who submit bids to the purchasing department. A minimum of three bids are obtained, and a bidder is then selected. The purchasing department then writes a purchase order which contains a synopsis of the bid, and notifies the winning bidder. An emergency job is contracted for by using the short list, apparently without seeking other bidders.

On receipt of the Union's request for information dated January 16, 1995, which asked for data from February 1992 through January 13, 1994, James Gouck, Respondent's plant manager, asked Kazmierczak to contact the vendors who Respondent used the most, those who did a majority of the subcontracting work, and obtain from them their invoices for 1994. Only information for the year 1994 was requested of the subcontractors because that year had just ended. No information was requested for the years 1989 through 1993. Those vendors were Atlas Elevator, Liftech, and Vacanti. Such documents were supplied to the Union on February 17, as set forth above.

Gouck did not request from the purchasing department any bids it might have retained. Rather, in order to expedite the search, he decided to make the requests from the subcontractors directly. Such bids have a rough description of the work to be performed.

Kazmierczak requested of the subcontractors invoices for work performed in the facility, with whatever specific information they had including man-hours. Gouck stated that Respondent does not keep information concerning man-hours, and that most of the contractors do not submit bids based on total man-hours. The subcontractors were not happy about providing the information, because much time was required to obtain the information from their files.

Kazmierczak stated that he could not supply the information for all the contractors as there were too many. He further stated that Respondent could not supply a description of each job, as requested, because he did not keep such accurate records, adding that the order would say ''paint room 302 using [Respondent's] paint.''

Suzanne Anderson, Respondent's general accounting manager who is responsible for accounts payable, testified that each subcontractor has a vendor number. Following the completion of a job performed by a subcontractor, the vendor sends an invoice which is filed with that vendor's number. Prior to 1990, vendors were listed alphabetically, but thereafter numbers were assigned.

Vendor files are kept for 7 years. Currently there are 40,000 vendor numbers. Anderson stated that there is no separate listing for subcontractors' vendor numbers. She further stated that most invoices do not contain the total man-hours, however, a few do. In addition, about 85 to 90 percent of the invoices have a brief description of the job and the total amount of money charged. Such information is in the vendor file.

Anderson testified that in order to comply with the Union's request for information, the vendor's name and number must be known. She estimated that it would take two people, one from accounts payable, and the other from the maintenance department, about 60 to 80 hours to search the records in order to locate the information requested. The records that must be searched include expense reports, utility bills, raw materials purchases, office purchases, payroll tax accounts, and bank accounts.

Analysis and discussion

The complaint alleges that the Union requested, and Respondent unlawfully refused to furnish, the following information:

> (1) Total man-hours worked by outside contractors in the performance of Maintenance Department work at its Tonawanda facility per year for the period February 4, 1989 through September 4, 1993.
>
> (2) A brief description of each Maintenance Department job/project at its Tonawanda Street facility which was contracted out per year for the period February 4, 1989 through September 4, 1993.

(3) Detailed information regarding the use of outside contractors (Liftech Handling, Inc.) so that the Union can determine the extent to which recoverable monies are involved in the case of the grievance dated October 19, 1993 by Carl Marcotte [the Renzoni grievance].

The alleged failure to furnish the annual dollars spent on such subcontracts, which was part of the original September 1993 request for information, was accordingly not alleged as a violation.

An employer's duty to bargain collectively obligates it to furnish the union with relevant information necessary for the proper performance of the union's duties as the employees' bargaining representative. *Detroit Edison v. NLRB*, 440 U.S. 301, 303 (1979).

When a union seeks information concerning the bargaining unit itself, such information is presumptively relevant and will be ordered disclosed without any showing of relevance by the union. When a union seeks information concerning matters outside the bargaining unit, as here, however, the union has the burden of showing that the ''request for information concerning subcontractors raises 'the probability that the desired information was relevant' and of use to the Union in carrying out its statutory responsibilities.'' *Wachter Construction*, 311 NLRB 215 (1993).

The Union's requests for information concerning subcontracting arose out of its concern that the increasing use of subcontractors had caused the loss of jobs in the maintenance department in violation of article 21, section 3 of the collective-bargaining agreement which prohibits subcontracting if it causes the displacement or layoff of such employees. The requests also grew out of a grievance concerning the subcontracting of work involving the maintenance of machines which had formerly been done by Respondent's employees.

In fact, the number of maintenance department employees has declined since the inclusion of the contractual clause permitting subcontracting in 1989.

Thus, the Union sought to establish, through its requests for information, that the contract had been violated—that subcontracting had impermissibly resulted in the displacement of, and led to the layoff of, employees.

The grievance that was filed on October 19, 1993, only 1 month after the request for information, expressly alleged a violation of article 21, section 3 of the contract in Respondent's engaging a subcontractor to perform work which had previously been done by maintenance department employees.

The time period for the information sought, February 4, 1989, related directly to the time that the subcontracting clause was first included in the contract.

I find that the information sought is relevant since the data requested had ''potential relevance to grievances'' concerning a breach of the terms of article 21, section 3. See *Detroit Edison Co.*, 314 NLRB 1273, 1274–1275 (1994). Although at the time the request for information was made, no grievance had been brought, it is clear that the grievance which was filed 1 month later related to such information. Although that specific grievance involved one company, Liftech, and information sought in that grievance was apparently limited to Liftech, the Union properly sought much broader information concerning Respondent's subcontracting activities.

In requesting such information, the Union clearly expressed its belief that increased subcontracting by Respondent had caused a loss of jobs in the maintenance department, in violation of the contract. Thus, the information sought is relevant because it had as its purpose efforts by the Union to ensure compliance with the collective-bargaining agreement, and to determine if it had been breached. *Wachter*, supra.

In *Somerville Mills*, 308 NLRB 425, 441 (1992), the union learned that employees were being laid off for lack of work while at the same time their work was subcontracted to outside companies. The union's request for the names and addresses of the subcontractors; the type of work which was contracted; the savings by reason of; and the labor costs of the subcontracting was upheld by the Board.

Specifically, the information sought which has been alleged to have been unlawfully refused—a brief description of, and the total man-hours worked by, outside contractors on maintenance department jobs—is clearly relevant and necessary to the Union's functions as the employees' collective-bargaining representative. The description of the jobs would enable the Union to determine whether jobs ordinarily performed by the maintenance department employees were being performed by subcontractors. The total man-hours worked by such subcontractors would enable the Union to determine the extent of the work performed by the outside companies.

With this information, the Union would then be in a position to make a determination as to whether (a) outside companies were performing unit work, and (b) whether the magnitude of such work ''result[ed] in the displacement . . . or [led] to the layoff'' of maintenance department employees, in violation of article 21, section 3 of the contract.

Having found that the information requested, as set forth in the complaint, was necessary for, and relevant to, the Union's performance of its duties as the exclusive bargaining representative of the unit employees, I find that Respondent had an obligation to furnish such information.

The Information Sought from the Subcontractors

After a finding of relevance has been made, the employer has the burden to provide adequate reasons why it cannot, in good faith, supply such information. *Public Service Co. of Colorado*, 301 NLRB 238, 247 (1991).

First, Respondent asserts that it does not have the information. As to a brief description of the jobs performed by the subcontractors, it is clear that Respondent possessed the information. Respondent's witnesses stated that the bids submitted by the subcontractors to the purchasing department contain such a description. The purchasing department, however, was not asked to search its records for such bids.

In addition, the purchasing department writes a synopsis of the bid on its purchase order. Such description would clearly have been sufficient to satisfy the Union's request for a ''brief description'' of the job. Kazmierczak's example of such a purchase order as ''paint room 302 using the company's paint'' would undoubtedly be an adequate description of the job which would acquaint the Union with the nature of the work performed. Indeed, the Liftech purchase order, submitted by Respondent to the Union in February 1994, contained a detailed description of the job, as set forth above. It should also be noted that Respondent's witness Anderson

stated that about 85 to 90 percent of the invoices contain a brief description of the job, and that such information is in the vendor file.

As to the total man-hours, Respondent's witness Anderson stated that a few invoices contain such a figure.

Next, Respondent seems to state that it is in possession of the information, but demanded that the Union supply more precise data, such as the names of the vendors, their numbers, and the specific jobs that the contractors did in order to access it. Clearly, such information is not in the Union's possession and constitutes an unreasonable request. This is especially so since Respondent's witness Kazmierczak stated that 60 to 70 percent of the work is subcontracted to firms on its ''short list,'' and as to the others, Respondent utilizes the Thomas directory or the telephone yellow pages, and thus Respondent had ready access to such information.

Finally, Respondent argues that if it had the information it would be too burdensome and costly to provide it. Respondent's witness Anderson stated that it would take two people in two different departments about 60 to 80 hours to search the records in order to locate the information requested. Although this does represent a major expenditure of time and money, ''the burden in time and money necessary to fulfill a request for information is not a basis for refusing the request.'' *Wachter*, supra at 216. ''The parties must bargain in good faith as to who shall bear such costs.'' *Tower Books*, 273 NLRB 671 (1984).

The evidence establishes that Respondent has supplied the Union with part of the requested information for the year 1994 which it obtained from some of its subcontractors, but not all of the 1994 subcontractors were solicited for the information. None of the requested information, however, has been furnished for the years 1989 through 1993, with the exception of the 1993 Vacanti file.

Respondent admits not having furnished any information for the prior years, asserting that it asked its subcontractors to furnish information only for 1994 since that year had just ended at the time it asked them to supply such data, and that they were reluctant to comply with Respondent's request. I do not find this to be a sufficient reason. Respondent simply had to ask the contractors to furnish the information for the prior years. This it was not willing to do.

Based on the above, I cannot find that Respondent made reasonable efforts to obtain and provide the information requested. *Public Service Co.*, supra.

The Information Regarding the Liftech Grievance

I find that the information provided to the Union concerning the Liftech grievance, although provided late, satisfied Respondent's obligation to supply such information.

CONCLUSIONS OF LAW

1. The Respondent, Pratt & Lambert, Inc, is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The Union, International Brotherhood of Firemen and Oilers, Local Union No. 1125, AFL–CIO is a labor organization within the meaning of Section 2(5) of the Act.

3. By refusing to furnish the Union with requested information that is relevant to administering the Union's collective-bargaining agreement with Respondent, the Respondent has violated Section 8(a)(5) and (1) of the Act.

4. The above unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I shall recommend that it be ordered to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act.

I shall recommend that Respondent be required to furnish the Union with the information requested, as set forth in the recommended Order, with any concerns about the allocation of costs to be resolved by good-faith bargaining between the parties.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[11]

ORDER

The Respondent, Pratt & Lambert, Inc., Buffalo, New York, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to furnish the Union with the requested information, set forth in 2(a) below, which is relevant to administering the collective-bargaining agreement between the Respondent and the Union.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Furnish the Union with the following information:

(i) Total man-hours worked by outside contractors in the performance of maintenance department work at its Tonawanda facility per year for the period February 4, 1989, through September 4, 1993.

(ii) A brief description of each maintenance department job/project at its Tonawanda Street facility which was contracted out per year for the period February 4, 1989, through September 4, 1993.

(b) Post at its facility at 75 Tonawanda Street, Buffalo, New York, copies of the attached notice marked ''Appendix.''[12] Copies of the notice, on forms provided by the Regional Director for Region 3, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places

[11] If no exceptions are filed as provided by Sec. 102.46 of the 8Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[12] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading ''Posted by Order of the National Labor Relations Board'' shall read ''Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.''

where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps Respondent has taken to comply.